



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

RQ 1021

**JOHN L. HILL**  
ATTORNEY GENERAL

June 25, 1975

The Honorable Richard C. Gibson  
University of Texas System Law Office  
601 Colorado Street  
Austin, Texas 78701

Open Records Decision No. 96

Re: Compliance with federal  
requirements as to student  
directory-type information

Dear Mr. Gibson:

The University of Texas at El Paso has received a request for a list of the current semester's enrollment of seniors and graduate students, specifically including the following information: classification, major, address, phone, marital status, date of birth, expected graduation.

You do not contend that the information is excepted from disclosure under any exception to the Open Records Act, article 6252-17a, V. T. C.S. However, you do contend that the information is within the scope of the federal Family Educational Rights and Privacy Act of 1974 (the "Buckley Amendment"), 20 U.S.C.A. §1232g(a)(5)(b) (Supp. 1975), and that disclosure of this directory-type information except in conformity with that Act could result in the loss of federal funds.

We recognized this potential problem in Open Records Decision No. 72 (1974), when we said that a list of names and addresses of parents of students at a school is public information under the Open Records Act, and should be released after compliance with the notice requirements for release of directory-type information established in the federal act.

The 64th Legislature has acted to resolve potential conflicts in this area. Senate Bill 1071 of the 64th Legislature was signed by the Governor of May 27, 1975, and went into immediate effect. This Act amends section 14 of the Open Records Act by adding a subsection as follows:

(e) Nothing in this Act shall be construed to require the release of information contained in education records of any educational agency or institution except in conformity with the provisions of the Family Education Rights and Privacy Act of 1974, as enacted by Section 513 of Public Law 93-380, codified as Title 20, U.S.C.A. Section 1232g, as amended.

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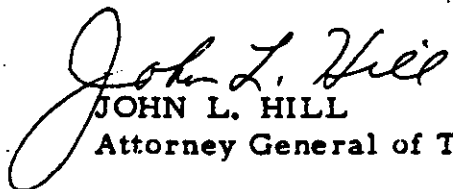
In regard to the specific request for information about which you inquire, we believe that the Texas Open Records Act makes the information public absent specific assertion of a privacy interest by the individual concerned, and requires you to take the necessary steps under the federal act to give notice and an opportunity to assert that privacy interest in this directory-type information prior to its disclosure.

Section 4 of the Texas Open Records Act requires public information to be produced "promptly," unless in active use or storage, in which case the requestor must be notified of the date and hour within a reasonable time when the information will be made available.

Reading Section 4 and new section 14(e) together, we believe that directory-type information concerning students may be regarded as in active use while the required notice to the students is being given. The educational institution must comply with the federal act within a reasonable time, and must notify the requestor of a certain time when the information will be made available.

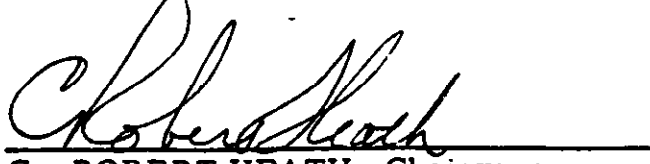
You have not asked and we need not decide whether the cost of providing the notice required by the federal act can be included in the cost of preparation of the records when the university has not previously given notice that directory information will be released. See Open Records Act, V. T. C. S. article 6252-17a, section 11.

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
DAVID M. KENDALL, First Assistant

  
C. ROBERT HEATH, Chairman  
Opinion Committee